

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

MAXIE MCNABB,)
)
)
Plaintiff) **CIVIL ACTION NO:**
) **2:06-0664-MHT**
)
v.)
)
SANDERS LEAD COMPANY, INC.)
)
)
Defendant.)

**PLAINTIFF'S SECOND SUPPLEMENTAL
EVIDENTIARY SUBMISSION**

Comes Now, the Plaintiff, Maxie McNabb, in accordance with the Court's Order allowing the Plaintiff to submit supplemental evidence in support of Plaintiff's Memorandum in Opposition to Defendant's Motion for Summary Judgment. The Plaintiff would show unto the Court as follows:

1. Supplemental Exhibit 1-Disciplinary records for Edward Meadows. The Defendant alleges that the Plaintiff was laid off and not rehired because he had discipline problems, poor work ethic and unsatisfactory production. However, these documents prove that Meadows, who was laid off for these same reasons and was twenty-five years old (25), was rehired at least by April 8, 2006. Moreover, it appears that between April 8, 2006 and August 10, 2006 Meadows may have been fired and rehired again as the disciplinary action form states "unexcused absence only been

working 2 weeks (1 day absent)." After the August 10, 2006 disciplinary action, Meadows was cited for unexcused absences and missing work on seven different occasions. This evidence shows that the Defendant was more than willing to rehire individuals under the age of forty who possessed less than stellar work records.

2. Supplemental Exhibit 2-Disciplinary records for Randolph Harley. Randolph Harley states in his application, dated April 4, 2006, that he had been fired by the Defendant for misconduct in November 2005. (See Pl.'s Ex. 20). Harley was approximately twenty-years old (20) when he reapplied. The Defendant rehired Harley in April 2006 and thereafter he proceeded to receive seven (7) disciplinary actions up until his termination on September 18, 2006 for being tardy fourteen days (14) in one month and a half and for smoking. Again this evidence shows that the Defendant was more than willing to rehire individuals under the age of forty who possessed less than stellar work records.

It is abundantly clear that disciplinary action is not a bar to employment for younger employees. Therefore, it should not have precluded McNabb from being rehired. Based on the foregoing, and the brief and evidentiary submission already on record in this case, summary judgment is due to be denied.

Respectfully submitted,

/s/Roderick T. Cooks
Attorney for the Plaintiff

OF COUNSEL:

WINSTON COOKS, LLC
The Penick Building
319-17th Street North
Birmingham, AL 35203
Tel: (205)502-0970
Fax: (205)251-0231
email: rcooks@winstoncooks.com

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document on all persons listed below by CMF/Electronic Mail and/or U. S. Mail, postage prepaid and addressed to them as follows:

Matthew M. Baker, Esq.
Cervera, Ralph & Reeves, LLC
P.O. Box 325
914 South Brundidge Street
Troy, Alabama 36081
(334) 566-0116

Done this the 23rd day of July, 2007.

s/Roderick T. Cooks
Of Counsel

SUPPLEMENTAL EXHIBIT 1

Disciplinary Action

Name: R. EDDIE MEADOWS Job Title: _____

Address: _____

Person Filing Action: JOHN McLENDON

Date Action Filed: 8-10-2006

Discipline Type: Notice Personnel File Suspension Leave Without Pay
 Re-Assignment Termination

Reason for Discipline: Unexcused Absence

Only Been Working 2 Weeks. (1 Day Absent)

Page from Employee Handbook to Support Discipline 9C

Status form attached? Yes No

Additional Comments (Witnesses to Reason for Discipline):

Signature of Recipient Eddie Meadows Dept. Head John McLendon

Review

Name: _____ Title: _____

Name: _____ Title: _____

Name: _____ Title: _____

Note: Form should be kept Confidential!

Disciplinary Action

Name: Edward Meadows Job Title: LABORER

Address: _____

Person Filing Action: Ray C. Blair

Date Action Filed: 1-19-07

Discipline Type: Notice Personnel File Suspension Leave Without Pay
 Re-Assignment Termination

Reason for Discipline:

unexcused ABSENCE on 1-18-07

no call in. Come to work

Do better than this, you needed a job, we helped you out.

Page from Employee Handbook to Support Discipline 9/C

Status form attached? Yes No

Additional Comments (Witnesses to Reason for Discipline):

Signature of Recipient _____ Dept. Head _____

Review



Name: Edward Meadows Title: _____

Name:  Title: 1st Dept Head

Name: _____ Title: _____

Note: Form should be kept Confidential!

Disciplinary Action

Name: Edward Meadows Job Title: LaborER

Address: _____

Person Filing Action: Ray C. Blair

Date Action Filed: _____

Discipline Type: Notice Personnel File Suspension Leave Without Pay
Re-Assignment Termination

Reason for Discipline:

unexcused absence on 1-28-07
no call in.

PB# 2
you are not going to be Re-hired, Again.

Page from Employee Handbook to Support Discipline 9/C

Status form attached? Yes No

Additional Comments (Witnesses to Reason for Discipline):

Signature of Recipient Edward Meadows Dept. Head EJ

Review

Name: _____ Title: _____

Name: _____ Title: _____

Name: _____ Title: _____

Note: Form should be kept Confidential!

Disciplinary Action

Name: Edward Meadows Job Title: LABORER

Address: _____

Person Filing Action: Ray C. Blair

Date Action Filed: 2-4-07

Discipline Type: Notice Personnel File Suspension Leave Without Pay
 Re-Assignment Termination

Reason for Discipline:

UNEXCUSED ABSENCE ON 2-3-07
#4 AB -

Page from Employee Handbook to Support Discipline 9/c

Status form attached? Yes No

Additional Comments (Witnesses to Reason for Discipline):

Signature of Recipient Edward Meadows Dept. Head EB

Review

Name: _____ Title: _____

Name: _____ Title: _____

Name: _____ Title: _____

Note: Form should be kept Confidential!

Disciplinary Action

Name: Edward Meadows Job Title: LABORER

Address: _____

Person Filing Action: Ray C. Blair

Date Action Filed: 2-16-07

Discipline Type: Notice Personnel File Suspension Leave Without Pay
Re-Assignment Termination

Reason for Discipline:

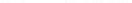
Unexcused Absence on 2-15-07

5 AB Read your Rule Book - We are not
going to Rehire you.

Page from Employee Handbook to Support Discipline 9/2

Status form attached? Yes No

Additional Comments (Witnesses to Reason for Discipline):

Signature of Recipient Edward Meekins Dept. Head 

Review

Name: _____ Title: _____

Name: _____ Title: _____

Name: _____ Title: _____

Note: Form should be kept Confidential!

Disciplinary Action

Name: EDWARD MEADOWS Job Title: LABORER

Address: _____

Person Filing Action: JOHN MELENDON

Date Action Filed: 4-16-2007

Discipline Type: Notice Personnel File Suspension Leave Without Pay
 Re-Assignment Termination

Reason for Discipline: Unexcused Absence 4-15-2007

Did Not Come To Work, Did Not Call In

H6AB -

Page from Employee Handbook to Support Discipline 9/C

Status form attached? Yes No

Additional Comments (Witnesses to Reason for Discipline):

Signature of Recipient Edward Meadows Dept. Head J

Review

Name: _____ Title: _____

Name: _____ Title: _____

Name: _____ Title: _____

Note: Form should be kept Confidential!

Disciplinary Action

Name: EDWARD MEADOWS Job Title: LABORER

Address: _____

Person Filing Action: JOHN MELENDON

Date Action Filed: 5-20-2007

Discipline Type: Notice Personnel File Suspension Leave Without Pay
 Re-Assignment Termination

Reason for Discipline: Unexcused Absence

Called with car trouble but was coming in,
Did not come to work 5-19-2007

Page from Employee Handbook to Support Discipline 9-C

Status form attached? Yes No

Additional Comments (Witnesses to Reason for Discipline):

Signature of Recipient Edward Meadows Dept. Head J

Review

Name: _____ Title: _____

Name: _____ Title: _____

Name: _____ Title: _____

Note: Form should be kept Confidential!

Disciplinary Action

Name: EDWARD MEADOWS Job Title: LABORER

Address: _____

Person Filing Action: JOHN MELENDON

Date Action Filed: 6-1-2007

Discipline Type: Notice Personnel File Suspension Leave Without Pay
 Re-Assignment Termination

Reason for Discipline:

Leaving Work Without Permission
of Supervisor.

Left Plant To Be Gone 10-15 Min For Phone No. To Parole
Officer. Did Not Return. Left At 4:15 P.M.

Page from Employee Handbook to Support Discipline 18-4

Status form attached? Yes No

Additional Comments (Witnesses to Reason for Discipline):

Return To Work 6-10-2007 5 Days Off

Signature of Recipient Edward Meadows Dept. Head gm

Review

Name: John Melendon Title: HR

Name: _____ Title: _____

Name: _____ Title: _____

Note: Form should be kept Confidential!

Disciplinary Action

Name: Edward Meadows Job Title: LABORER

Address: _____

Person Filing Action: Ray C. Blair

Date Action Filed: 4-8-06

Discipline Type: Notice Personnel File Suspension Leave Without Pay
Re-Assignment Termination

Reason for Discipline:

FOR EXCESSIVE absenteeism and absent without notice. Edward have a bad attitude Sometime.

Page from Employee Handbook to Support Discipline Page 9 Rule #6 & #12

Status form attached? Yes No

Additional Comments (Witnesses to Reason for Discipline):

Signature of Recipient Edward Meadows Dept. Head _____

Review

Name: Sam Fitch Title: HR

Name: Donna Glavin Title: BB

Name: _____ Title: _____

Note: Form should be kept Confidential!

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SUPPLEMENTAL EXHIBIT 2

Disciplinary Action

Name: RANDOLPH HARLEY Job Title: LABORER

Address: _____

Person Filing Action: JOHN MELENDON

Date Action Filed: 7-18-2006

Discipline Type: Notice Personnel File Suspension Leave Without Pay
 Re-Assignment Termination

Reason for Discipline:

Unexcused Absence 7-17-2006

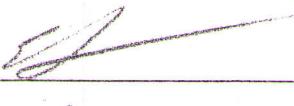
Page from Employee Handbook to Support Discipline 9 C

Status form attached? Yes No

Additional Comments (Witnesses to Reason for Discipline):

Signature of Recipient Randolph E. Harley Dept. Head John Melendon

Review

Name:  Title: Dept Head

Name:  Title: _____

Name: _____ Title: _____

Note: Form should be kept Confidential!

Disciplinary Action

Name: RANDOLPH HARLEY Job Title: _____

Address: _____

Person Filing Action: JOHN MELENDON

Date Action Filed: 8-1-2006

Discipline Type: Notice Personnel File Suspension Leave Without Pay
 Re-Assignment Termination

Reason for Discipline:

Unexcused Absence 7-31-2006

Page from Employee Handbook to Support Discipline 9-C, 8-B

Status form attached? Yes No

Additional Comments (Witnesses to Reason for Discipline):

Been Out 7 Days In 3 Months.
5 Unexcused, 2 Excused

Signature of Recipient Randolph E. Harley Dept. Head John M. Melendon

Review

Name:  Title: CCP Dept Head

Name: _____ Title: _____

Name: _____ Title: _____

Note: Form should be kept Confidential!

Disciplinary Action

Name: RANDOLPH HARLEY Job Title: _____

Address: _____

Person Filing Action: JOHN MELENDON

Date Action Filed: 8-10-2006

Discipline Type: Notice Personnel File Suspension Leave Without Pay
 Re-Assignment Termination

Reason for Discipline: Unexcused Absence

~~as of to date this is # 6 P.B. From this point you are Handled
toward termination.~~

~~See pg 8 & 9 in Rule book~~

Page from Employee Handbook to Support Discipline 9-C

Status form attached? Yes No

Additional Comments (Witnesses to Reason for Discipline):

Signature of Recipient Randolph E. Harley Dept. Head John Melendon

Review

Name: EJ Title: ATT Dept Head

Name: _____ Title: _____

Name: _____ Title: _____

Note: Form should be kept Confidential!

Disciplinary Action

Name: RANDOLPH HARLEY Job Title: _____

Address: _____

Person Filing Action: JOHN McLENDON

Date Action Filed: 8-16-2006

Discipline Type: Notice Personnel File Suspension Leave Without Pay
 Re-Assignment Termination

Reason for Discipline:

Unexcused Absence

H7 AB - written warning / next time one(1)
day suspension.

Page from Employee Handbook to Support Discipline 9-C

Status form attached? Yes No

Additional Comments (Witnesses to Reason for Discipline):

Signature of Recipient Randolph E. Harley Dept. Head John McFerdon

Review

Name:  Title: CM Dept Head

Name: _____ Title: _____

Name: _____ Title: _____

Note: Form should be kept Confidential!

Disciplinary Action

Name: Randolph Harley Job Title: _____

Address: _____

Person Filing Action: EF

Date Action Filed: 9-1-06

Discipline Type: Notice Personnel File Suspension Leave Without Pay
 Re-Assignment Termination

Reason for Discipline:

AB Aug 30 & 31 no call

But he said he was sick. I gave him the benefit of the doubt. I will not do this again; I have done all I can to keep this mans job, it is up to him.

Page from Employee Handbook to Support Discipline pg 849

Status form attached? Yes No

Additional Comments (Witnesses to Reason for Discipline):

Signature of Recipient Randolph Harley Dept. Head EF

Review

Name: EF Title: Asst Dist Head

Name: _____ Title: _____

Name: _____ Title: _____

Note: Form should be kept Confidential!

Disciplinary Action

Name: Randolph Harley Job Title: Laborer

Address: _____

Person Filing Action: Kelley Gannon

Date Action Filed: 9-1-06

Discipline Type: Notice Personnel File Suspension Leave Without Pay
 Re-Assignment Termination

Reason for Discipline: Possession of tobacco.

First offense - Verbal Warning

Page from Employee Handbook to Support Discipline pg. 17 Rule 9

Status form attached? Yes No

Additional Comments (Witnesses to Reason for Discipline):

Signature of Recipient Randolph Harley Dept. Head EJ

Review

Name: EJ Title: 1st Asst. Dist. Head

Name: _____ Title: _____

Name: _____ Title: _____

Note: Form should be kept Confidential!

Disciplinary Action

Name: RANDOLPH HARLEY Job Title: _____

Address: _____

Person Filing Action: JOHN MELENDON

Date Action Filed: 9-18-2006

Discipline Type: Notice Personnel File Suspension Leave Without Pay
 Re-Assignment Termination

Reason for Discipline:

Tardiness 9-D

14 Day in Month and Half
TERMINATED FOR CONTINUAL TARDINESS AND
ABSENCE. ALSO SMOKING IN UNAUTHORIZED AREA

Page from Employee Handbook to Support Discipline 9-D

Status form attached? Yes No

Additional Comments (Witnesses to Reason for Discipline):

Signature of Recipient Randolph S. Harley Dept. Head John Melendon

Review

Name: Sam White Title: HR

Name: _____ Title: _____

Name: _____ Title: _____

Note: Form should be kept Confidential!